

Remarks

In response to the Office Action dated February 13, 2008, Applicants respectfully request reconsideration based on the above claim amendment and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance. In the present application, claims 1 and 20-27 have been amended. Claims 28-30 are new. No new matter was added.

Applicants' Statement of the Substance of the Interview

A telephonic interview between the undersigned representative for the Applicants and the Examiner was held on April 28, 2008. During the interview proposed amendments were discussed to address the §112 first and second paragraph rejections. No agreement was reached.

More specifically, the Examiner indicated concern that the specification did not discuss how one operating system may be incompatible verses a second operating system as recited in the claims. The undersigned indicated that the reason why operating systems may be incompatible was not relevant to the enablement of the claims as the incompatibility was disclosed as an underlying predicate made by the inventor for the disclosure regardless of any specific operating systems being used. The Examiner requested written amendments and arguments be provided for consideration.

Claim Rejections - 35 U.S.C. §112

Second Paragraph Rejections

Claims 20 and 26-27 are rejected under 35 USC §112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural elements under MPEP §2172.01. More specifically, the Office Action asserts that

(i) there is no relationship between 'user input' (line 5); user input corresponding to an incoming XML item (line 7); and 'user input instructions' for which non-proprietary data is defined in an outgoing XML item (Line 7);

(ii) There is no relationship between 'user input instructions' relating to 'system output instructions'(line18); 'user input' corresponding to incoming XML, sent from the second

computer (line 25); between 'system output instructions' (line 15 –second computer) and 'system outputs' (line 5, 12 – first computer system); and

(iii) there is no possible relationship between an application layer 'user input' and 'system level output instruction's.

Independent claims 20, 26 and 27 have been amended to more clearly describe the claimed subject matter as originally set forth in the claims as filed. Amended independent claim 20 recites:

“[a] system for remote computer access between computing systems with incompatible operating systems, comprising:

a first computing system having stored thereon software which when executed on the first computing system:

receives a user input via a first user interface of the first computing system;
identifies user input instructions generated by a proprietary operating system on the first computer system, the user input instructions relating to generating a system output via a second user interface of the first computing system in response to the user input,

translates the user input instructions into a first non-proprietary data script defining an outgoing software object corresponding to the user input instructions, the translation being accomplished by a first device driver executing in conjunction with the proprietary operating system on the first computer system,

transmits the outgoing software object, and
receives an incoming software object comprising a second non-proprietary data script reflecting a response to the user input instructions for execution on the second user interface of the first computing system, wherein the second non-proprietary data script is translated by the first device driver into a system output instruction being compatible with the proprietary operating system of the first computer and incompatible with the proprietary operating system of the second computer and the system output instruction is executed on the first computer system to a system output via the second user interface;
a second computing system having stored thereon software which when executed on the second computing system:

receives the outgoing software object from the first computing device;
translates the first non-proprietary data script using a second device driver executing in conjunction with a second proprietary operating system executing on the second computer system into the user input instructions identified by the first computing system but operationally compatible with a second operating system executing on the second computer system and operationally incompatible with the proprietary operating system executing on the first computer system;

executes the user input instructions compatible with the second operating system;
identifies system output instructions operationally compatible with a second operating system executing on the second computer system and operationally incompatible with the proprietary operating system executing on the first computer

system, the system output instructions being responsive to the user input instructions identified by the first computing system,
translates the system output instructions into a second non-proprietary data script defining an incoming software object utilizing the second device driver,
transmits the incoming software object; and
a communications network operably coupled between the first computing system and the second computing system for transmitting the first and second non-proprietary data scripts defining incoming and outgoing software objects between the first computing system and the second computing system.”

The Examiner’s focus during examination of claims for compliance with the definiteness is whether the claim meets the threshold for **reasonable** clarity and precision, not whether more suitable language or modes of expression are available. If the Examiner merely wants the Applicants to improve the clarity or precision, the claim must **not** be rejected under §112, second paragraph. (MPEP 2173.02).

The test for definiteness under §112, second paragraph is whether those of ordinary skill in the art would understand what is claimed **when the claim is read in light of the specification**. Breadth of a claim is not to be equated with indefiniteness. If the Applicants have not otherwise indicated that they intended the invention to be of a scope different than that defined claims, then the claims comply with 35 U.S.C. §112, second paragraph.

Independent claim 20 has been amended to more clearly describe the subject matter as originally set forth in the claims as filed. As such the rejections have been rendered moot.

To the extent that the amendments have not rendered the rejections moot, Applicants respectfully point out that in regards to (i), above, amended independent claim 20 recites that the “system for remote computer access ...identifies user input instructions compatible with a proprietary operating system on the first computer system, the user input instructions relating to generating system outputs at the first computing device in response to a user input into a user interface at the first computing system...” Therefore, amended independent claim 20 recites an exact relationship between “user input instructions” and the “user input”. As such, the rejection asserted in (i) may be withdrawn.

In regards to (ii), above, amended independent claim 20 recites that “...the system output instructions being responsive to the user input instructions identified by the first computing system ...” and “...a system output instruction being compatible with the proprietary operating system of the first computer and incompatible with the proprietary operating system of the

second computer and the system output instruction is executed on the first computer system to produce a system output...” Therefore, amended independent claim 20 recites an exact relationship between ‘user input instructions’ and ‘user output instructions’ and ‘system output instructions’ (second computer) and ‘system outputs’ (first computer). As such, the rejection asserted in (ii) may be withdrawn.

In regards to (iii), above, the Office Action further asserts that the Specification does not support any output type instructions (on the second computer) that belongs to such ‘**system layer type**’—specific to a second computer architecture—and that which, at the same time, matches to the user input pertinent to an **application layer** of the first computer. The Office Action further asserts that there is not “sufficient disclosure for one to construe how a ‘user input’ [may] be equated via an XML into a systems layer call to yield an output; when in fact a directive at and application layer can indirectly invoke native code; but executing native code in one application process cannot be equated to ‘system output instructions’ unless the Disclosure clearly redefines that the native code is actually ‘system out put instructions’ and ‘system output instructions’ are also ‘system outputs...”

In regards to (iii), Applicants respectfully point out that “if the claim is too broad because it does not set forth that which Applicants regard as their invention as evidenced by statements outside the application as filed, a rejection under §112, second paragraph would be appropriate. If the claim is too broad because it is not supported by the original specification a rejection under §112, first paragraph may be appropriate.” (MPEP 2173.04). As there has been no assertion of Applicants’ statements discussing the breadth of the claims, Applicants respectfully assert that the current rejection asserted in (iii) is improper under §112, second paragraph. As such, the rejection under the second paragraph must be withdrawn.

In the alternative, Applicants respectfully point out that only a claim that allegedly fails to interrelate essential elements of the invention as **defined by the Applicants’ in the specification** may be rejected under 35 U.S.C. §112, second paragraph for failure to point out and distinctly claim the invention. It is not essential to a patentable combination that there be interdependency between the elements of the claimed device or that all of the elements operate concurrently toward the desired result. (MPEP 2172.01).

Applicants respectfully note that nothing in their specification defines an essential element or a relation of essential elements. Further, nothing in Applicant’s previous responses

defines an essential element or a relation of essential elements. Because the rejection fails to rise to the standard required under MPEP 2172.01, Applicants respectfully assert that the rejections asserted under MPEP 2172.01 are improper and must be withdrawn.

Amended independent claim 26 recites similar subject matter. Therefore amended independent claim 26 is allowable for at least the same reasons discussed above.

Claim 27 has been amended. As such, the rejections have been rendered moot.

First Paragraph

Claims 20 and 26-27 are rejected under 35 USC §112, first paragraph, for failing to comply with the written description requirement. Specifically, the Office Action asserts that the recited “system output instructions”, XML data defining “system outputs” or “system output instructions” in claims 20 and 26 are not supported in the Specification. The Office Action further asserts that the inventor is perceived as not possessing the “system output instructions” when associating this “systems outputs” with an XML item and how the “system output instruction” would support XML for a mere application layer user input.

Applicants respectfully traverse the rejections and point out that a fundamental principal contained in 35 U.S.C §112, second paragraph is that Applicants are their own Lexicographers. They can define in the claims that they regard as their invention in essentially whatever terms that they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art. (MPEP 2173.01). The entire claim must be considered, including the preamble. (MPEP 2163(II)(A)(1)).

Further, what is conventional or well known to one of ordinary skill in the art need not be disclosed in detail. If a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, the adequate description is met. Newly added claim recitations may be supported through express, implicit or inherent disclosure. (MPEP 2163).

Independent claim 20 has been amended to more clearly describe the claimed subject matter as originally set forth in the claims as filed. As such, the rejections have been rendered moot and may be withdrawn.

In the alternative, Applicants respectfully point out support in the Applicants’ specification for the recited “system output” and “system output instruction”. As for support for

“system output”, Applicants respectfully point to at least ¶¶ 0009, lines. 3-4; 0019, line. 8; 0038; and 0046, lines. 8-15. As support for “system output instruction” Applicants respectfully point to at least ¶¶ 0008, lines. 2-3 (output related instructions); 0009, lines. 2-4; 0024, lines. 4-5; 0025, lines. 7-8; 0026; 0031, lines 7-11; 0035; and 0037.

Amended independent claim 26 recites similar subject matter. As such, amended independent claim 26 is allowable over the §112 rejections for the same reasons.

Claim 27 has been amended. As such, Applicants respectfully assert that the §112, first paragraph rejection may be withdrawn.

Claim Rejections - 35 U.S.C. §102

Claims 1-10, 12 and 20-27 are rejected as being anticipated by Salmenkaita (U.S. Patent App. 2004/0176958). Applicants respectfully traverse the rejections.

Independent claim 1 recites, in pertinent part:

“[a] method for providing remote computer control of an application executing on a second computer from a first computer over a network comprising...

a first computing system having stored thereon software which when executed on the first computing system...translates the user input instructions into a first non-proprietary data script defining an outgoing software object...

the first user input instruction being operationally compatible with the proprietary operating system and operationally incompatible with a second operating system executing on the second computer which incorporates a second user interface, wherein the first user interface is dissimilar to the second user interface...”

It is respectfully submitted that Salmenkaita fails to describe each and every feature specified in amended claim 1. Salmenkaita concerns itself with a system using voice commands from a wireless device to instantiate an application on the wireless device available on a network. (Abstract). The voice commands correspond to a list of previously defined XML voice short-cuts that can be matched to a particular voice input to instantiate one of several user services that may be accessed from the wireless device. (¶ 0039).

In a distributed computing environment, Salmenkaita describes that various processing tasks may be distributed between the wireless user device, a network server and other network devices. (¶0046). A network server then identifies a service corresponding to a voice short-cut that matches the user’s voice command (see ¶¶ 0008, 0044 and 0052). The network servers are configured to implement both a service recommendation and the related voice recognition

processing. When a voice command is received from the user by the wireless device, **the voice command data is forwarded to the network server which uses voice recognition processing to identify the service by matching the voice command to a voice shortcut.** The network server then returns the selected service address to the wireless device for instantiation (§§ 0047 and 0049). Throughout the description in Salmenkaita, the operating systems of both the wireless device and the network server are never described as being incompatible and are never described as requiring voice command translation either at the wireless device or at the server.

Salmenkaita does describe using voice recognition for translating verbal commands to voice command data and that mere voice utterances, without translation, are incompatible with the operating systems of the wireless device and the network server. However, just because the operating systems of the wireless device and the network server require the translation of verbal utterances into a machine language format that is compatible with their particular operating systems, it does not follow that Salmenkaita is describing that its wireless device operating system is incompatible with the operating system of the network server.

To the contrary, in Salmenkaita the voice command data is simply forwarded from the wireless device directly to the network server without translation. (§§ 0047, 0049, 0052). Because Salmenkaita fails to describe translating the voice command data at the wireless device where the user input is initially received, Salmenkaita is at least implying, if not plainly describing, that the operating systems of the network server and the wireless device are directly compatible.¹

After forwarding, the network server uses the voice command data [without translation] to select the proper XML voice short cut matching the voice command. Just because the server utilizes voice XML tags after **processing** the voice commands from the wireless device, it does not follow that the operating systems of the wireless device and the server are incompatible.

In rebuttal to Applicants' previous response, the Office Action (See Note on page 9, line 7) argues that merely because the wireless device and the server may have dissimilar user interfaces, that it is then **implicit** that the operating systems (i.e. native code) of the wireless device and the network server are being described as being mutually incompatible. Applicants respectfully but completely disagree.

¹ "...the wireless device receives a voice command from the user and forwards the voice command data to the network server [and possibly other relevant information...such as ...voice XML tags]. (Salmenkaita, Para. 0052).

A claim is anticipated only if each and every element as set forth in the claim is found either **expressly or inherently** in a single reference. (MPEP 2131). Here, the Office Action is relying on an **implication** that because the user interfaces of the wireless device and the server may be different then necessarily it follows (i.e. that its inherent) that their operating systems are also incompatible. Because the Office Action admits that a claim element is missing and may only be found by implication, the Office Action has failed to establish that Salmenkiata anticipates independent claim 1 for at least this reason. (MPEP 2131). Therefore independent claim 1 is allowable over Salmenkiata for at least this reason.

To the extent that the missing subject matter may be inherent in Salmenkiata, such a gap may be filled with recourse to **extrinsic** evidence. Such extrinsic evidence **MUST** make clear that the missing descriptive matter is **necessarily** present in the thing described in Salmenkiata, and that it would be so recognized by one of ordinary skill in the art. (MPEP 2131.01(III)). Applicants respectfully point out that no **extrinsic** evidence of any sort has been provided by the Examiner to substantiate the implication that because the user interfaces of the wireless device and the server may be different then necessarily it follows (i.e. that it's inherent) that their operating systems are also incompatible.

Since both operating systems may process the same voice command data and since there is not discussion of the voice command data being agnostic to the operating systems, then it is at least highly likely that both operating systems are compatible. As such, Salmenkiata is expressly describing that the voice commands are compatible with both the operating systems of both the wireless device and the network server and is not describing that they are incompatible.

Because Salmenkiata fails to describe that "...the first user input instruction being operationally compatible with the [first] proprietary operating system and operationally incompatible with a second operating system executing on the second computer...", Salmenkiata fails to describe each and every element of claim 1 for at least this reason.

Further, Applicants respectfully assert that Salmenkiata also fails to describe "...translates the user input instructions into a first non-proprietary data script defining an outgoing software object...". To the contrary, Salmenkiata is expressly describing that the voice command data is processed and sent from the wireless device operating system, **untranslated**, is used by the server, **untranslated**, to then select the desired service by matching the voice commands to the voice shortcuts. Therefore, Salmenkiata makes it clear that the operating

system of the server is processing the same voice command data as the operating system of the wireless device without translation. Because Salmenkiata fails to describe "...software which when executed on the first computing system...translates the user input instructions into a first non-proprietary data script defining an outgoing software object...", Salmenkiata fails to describe each and every claim element of independent claim 1. As such, Salmenkiata fails to anticipate independent claim 1. As such, independent claim 1 is allowable over Salmenkaita for at least this additional and independent reason.

Claims 2-10 and 12 each depend from amended independent claim 1 and thus specify at least the same features. Therefore, these claims are allowable for at least the same reasons. Amended independent claims 20, 21, and 26 recite similar subject matter as amended independent claim 1 and thus are also allowable for at least the same reasons. Claims 22-25 and 27 depend from amended independent claims 21 and 26, respectively, and thus specify at least the same features. Therefore, these claims are also allowable for at least the same reasons. Accordingly, the rejection of claims 2-10, 12, and 20-27 should also be withdrawn.

Incompatibility of Operating Systems

During the telephone interview, the Examiner expressed concern that the Applicants' specification did not explain how or why one operating system may be incompatible with another and at which layer the incompatibility was occurring. Applicant respectfully points out that it is not relevant to the enablement of Applicants' disclosure as to why two operating systems may be incompatible. It is a predicate assumption to at least one embodiment of the the disclosure that two operating systems are indeed incompatible.

Further, given the number of operating systems currently in use and the number of combinations and permutations between them that may exist, such discussion would be voluminous and not particularly enlightening to those of ordinary skill in the art. What is conventional or well known to one of ordinary skill in the art need not be disclosed in detail. If a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, the adequate description is met. (MPEP 2163).

Applicants also assert that merely saying that the first and second operating systems are incompatible would be prima facie definite under §112 first and/or second paragraph because

one of ordinary skill concerning operating systems can determine if any single thing, regardless of what, creates an incompatibility between those systems.

Conclusion

In view of the foregoing amendments and remarks, this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicants' attorney at the number listed below.

No fees are believed to be due other than for an RCE. Please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Date: May 15, 2008

Respectfully submitted,

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